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by Gervase Parker Bushe.....

CASE

OF

GREAT-BRITAIN

AND

AMERICA, &c.

RPICW

CASE

OF

GREAT-BRITAIN

AND

AMERICA,

ADDRESSED

TO THE KING,

AND BOTH

HOUSES of PARLIAMENT.

It is againſt the liberty of the ſubject, who hath a true property in his goods, which cannot be taken from him, without his actual or implied conſent.

Trial of HAMPDEN.

THE THIRD EDITION.

DUBLIN:

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RPJCB

THE

CASE

OF

GREAT-BRITAIN and AMERICA.

THE affairs of Great-Britain and her Colonies, are at a criſis. If our juſtice or our moderation dictate to us the making any conceſſions, they ſhould be made whilſt they can yet be *imputed* to our moderation, or our juſtice. The preſent Seſſion of Parliament ſhould determine upon ſome permanent ſyſtem. Great-Britain ſhould fix the Pretenſions which ſhe will never relinquiſh, and the Colonies ſhould have certain information of thoſe claims, which they muſt ſubmit to. Until ſuch a ſyſtem be reſolved upon,

upon, there will be irreſolution, on the one ſide, and repugnance, on the other; and no ſyſtem can be ſtable, that is not founded upon equity, and wiſdom.

It is the reſolution of the preſent Miniſtry, it is ſaid, to impoſe taxes upon the Colonies, by the authority of the Britiſh Parliament, and to *compell* the Colonies to ſubmiſſion. To examine the juſtice and the policy of thoſe meaſures, and to ſuggeſt others, which appear to be leſs exceptionable, in each of thoſe particulars, is my object.

The Colonies, by their reſpective Charters, have not uniformly the ſame privileges, or the ſame conſtitution. But though they differ, in many particulars, they are alike, in the following; namely, That the inhabitants of every one of them, have a right to tax themſelves by their repreſentatives, in their provincial aſſemblies; that none of them vote for repreſentatives, in the Britiſh Parliament; and that all of them are to enjoy the freedom of Britiſh ſubjects. In the ſearch for arguments againſt the Americans, the validity of thoſe charters has not paſſed unqueſtioned. I ſhall ſay, however, but a little in their

ſupport

ſupport, as the attacks have been very weak, and very few. From the earlieſt times, down to the preſent, the diſpoſition of foreign territory belonging to Great-Britain, has always been veſted in the Executive. It is a power which the Reſtoration and the Revolution have left unſhaken. From the ceſſion of Tangier, to that of Guadaloupe, how frequently has it been exerciſed? If then the Crown, at the time when it granted the charters, could have ceded the territory (1) of America, to a foreign power, could it not have fixed the terms, on which its preſent and future inhabitants ſhould continue the ſubjects of Great-Britain? Where it could have relinquiſhed *all* the authority poſſeſſed by Great-Britain, certainly it could relinquiſh a *part* of that authority. Where it could make a *total alienation*, to enemies even, ſurely it could make a *modified grant*, to ſubjects. But ſuppoſe that the Crown had not been legally poſſeſſed of that power, is there not a term, after which uninterrupted poſſeſſion confers a right? Have not the Coloniſts poſſeſſed their charters, much longer than

(1) At preſent it is unalienable from Great-Britain, the charters having annexed it inſeparably.

than that term? Have they not dedicated their lives and fortunes to the improvement of that country, from a dependance upon the validity of their title? Have not the Britiſh Parliament ſeen and acquieſced in their doing ſo? Has not Great-Britain, in her excluſive trade, received a valuable conſideration? Surely then it would be monſtrous injuſtice to deprive them of rights ſo purchaſed and ſo confirmed. It has alſo been urged by ſome, that the Parliament can *revoke* theſe charters when it ſhall think proper; for that it can take away from any city or corporate town, in England, its charter, notwithſtanding any length of time it may have enjoyed it. I anſwer, that if an Engliſh city or corporate town had ſo purchaſed their charter, as the Coloniſts have purchaſed theirs, and had ſo long poſſeſſed it, it would be *unjuſt* in the Parliament, to reſcind, or violate it. But the compariſon is totally unfair; for the charter of an Engliſh city, or corporate town, and thoſe of the Colonies, beſides other material differences, have this eſſential one, that the former give a Right of repreſentation in the Britiſh Parliament, and that the latter do not. If therefore the charter of a Britiſh city or borough be reſcinded by Parliament, it is reſcinded in an aſſembly which is the repre-

repreſentative of that city or borough. Where a part of England only is concerned, the legiſlature of England may claim unlimited power, as a body, to which all the rights of Engliſhmen, are made over and intruſted. But the ſame reaſoning cannot be applied to the charters of the Colonies; the Parliament of England has not the ſame title to act for them. They are agreements, between England, on the one part, and the Colonies, on the other. In this caſe, England is one of the contracting parties, and, therefore, cannot act for both. She is a party, and, therefore, cannot be a judge.

The opponents of the Americans admit, that they are intitled to the privileges of Britiſh ſubjects; that they are a free people. Could we determine what theſe privileges are, and what this freedom, the diſpute would be at an end. The American aſſerts, that he is deprived of the moſt eſſential privilege of a Briton, and a free man, if the Colony to which he belongs, can be taxed, by an aſſembly, in which it is not repreſented. The advocate for adminiſtration, anſwers, that there are many natives of Great-Britain, herſelf, who are not repreſented; for that there are many who have not votes, in the

choice of repreſentatives, and that the Coloniſts have no cauſe to complain, when they are in the ſame condition, as *many* of the natives of Great-Britain. Would a Colony pretend to a better conſtitution, than the mother country, from whence ſhe derives it? As this argument has been frequently repeated, I ſuppoſe it to be a favourite one with adminiſtration; and as it is the only method that has been tried, to reconcile their aſſertion, that "the Britiſh parliament has "a right to tax the Colonies," with their conceſſions, that the Coloniſts have the privileges of Britons, and are a free people; let us liſten to an American, pleading his own cauſe, in anſwer to this argument: "I do "not claim a *better* conſtitution, than my "mother country, but in the granting of my "own property, I claim *as good* a conſtitu-"tion: you have miſrepreſented my claims. "I have ſaid, that a right of ſuffrage, in the "choice of our repreſentatives, is the moſt "eſſential of Britiſh privileges; but I have "*not* ſaid, that *every* Briton enjoys that "Right; nor do I require, that every Co-"loniſt ſhould enjoy it. There are many "Britons, who have no vote, in the elec-"tion of the Houſe of Commons, ſo are "there many Coloniſts who have no vote,

"in

" in the election of our *provincial* repreſen-
" tatives; alledge, if you will, that in being
" taxed by your Parliament, you are taxed
" by an *imperfect* repreſentative; in being
" taxed by our *provincial* aſſemblies, we
" are taxed by a repreſentative *as* imperfect.
" Our freedom, therefore, in point of taxa-
" tion, when we are taxed by our *own* aſ-
" ſemblies, is not greater than yours; it is
" only equal to it; our conſtitution is an
" image of yours. But if we are to be tax-
" ed by your Parliament, our conſtitution
" no longer reſembles yours, and our free-
" dom is annihilated. If there be many Bri-
" tons who have *not* a vote, in the choice of
" their repreſentatives, there are alſo many,
" that *have*. The poſſeſſion of a 40*s*. free-
" hold, in Britain, confers the privilege of
" a vote: the poſſeſſion of the whole conti-
" nent of America, does not confer that
" privilege. Do you not know the infinite
" difference, between a nation, where *all* have
" *not* the power of voting for their repre-
" ſentatives, and a nation, where *none have*
" that power? The former is *your* condi-
" tion, and therefore, you are a free people;
" the former is what we claim; the latter is
" the condition of ſlaves, and that is what
" you offer. We claim the privileges of

 " Britons,

" Britons, and you tell us that we have
" them, becauſe we are like thoſe Britons,
" who are deſtitute of the moſt valuable of
" thoſe privileges! We claim the ſame con-
" ſtitution as Great-Britain, and you offer
" us only the *defect* of that conſtitution, but
" deny us its *advantages*. England cannot
" be taxed, but by an aſſembly, where her
" land is repreſented by Knights, her mo-
" nied intereſt by Citizens and Burgeſſes,
" and therefore, ſhe is a free nation. Is then
" America on a par with England, in point
" of Freedom, if ſhe can be taxed by an As-
" ſembly, to which her freeholders ſend *no*
" Knights, and her cities *no* Citizens? You
" ſay, that your right of ſuffrage, is partially
" diſtributed, in Britain; give us then a
" right of ſuffrage, *as* partially diſtributed,
" in America. For this repreſentation, par-
" tial and imperfect, as you call it, your
" Magna Chartas have been demanded,
" your patriots have bled, and your mo-
" narchs have been dethroned: Yet this
" you deny to the Americans, though you
" ſay to us, Ye have the privileges of Bri-
" tons."

" But there is yet another defect, in your
" argument. For it is not true, that we are
" in

" in *as good* a condition as thoſe Britons
" whom you call unrepreſented, and who
" are not electors: for even *they* have this
" great advantage, that both the repreſenta-
" tive, and the electors, pay a part of the
" tax, as well as thoſe who have no ſuffrage:
" whereas, if the Houſe of Commons of
" England, ſhould tax the Americans, nei-
" ther the repreſentatives, nor the electors,
" would pay any proportion of what they
" impoſed upon us; they would not tax,
" but *untax* themſelves. The condition,
" therefore, of an Engliſhman, who has no
" ſuffrage, when taxed by the Britiſh legi-
" ſlature, and of an American, taxed by the
" ſame authority, are totally diſſimilar.
" Place them in ſituations which bear *any*
" ſimilitude, and it will ſhew, in the ſtrong-
" eſt light, the injuſtice of the preſent mea-
" ſures. Suppoſe then, that the Parliament
" of Britain, ſhould impoſe a tax, from which
" themſelves, and thoſe who voted for them,
" ſhould be exempted, and which ſhould
" be paid intirely by thoſe who had no
" ſuffrages; this would bear *ſome* reſem-
" blance to their taxing the Americans;
" and would not this be unparalleled in-
" juſtice? But if even this (unjuſt as you
" muſt eſteem it) were the practice of your

" Parlia-

" Parliament, the condition of a non-voting
" Engliſhman would ſtill be infinitely pre-
" ferable to ours; for even ſuch a tax as I
" have ſtated, would fall upon the relations,
" the friends, the dependents, the tenants,
" the manufacturers, the labourers, of Bri-
" tiſh legiſlators. The legiſlator would feel
" its effects, almoſt inſtantaneouſly; he
" would find his own intereſt immediately
" concerned; he would, therefore, uſe ſome
" moderation. Beſides, he is an eye-wit-
" neſs of their condition, he can judge of
" their abilities, he can be wounded at the
" ſight of their diſtreſſes. But he cannot
" ſee our miſery, he cannot judge of our
" abilities; and his tenants, and his manu-
" facturers will feel the *immediate* effects of
" our ruin, not in their diſtreſs, but in their
" exoneration. If, therefore, the legiſlature
" of Britain, ſhould adopt ſuch a ſyſtem of
" unparalleled injuſtice, with reſpect to the
" non-voting inhabitants of Britain, yet,
" even the ſufferers by, and the objects
" of that injuſtice, would be happy, in com-
" pariſon of us. Suppoſe, for a moment,
" if you can bear the thought, ſuppoſe for
" a moment, that your Houſe of Commons
" were not elected by you; that they
" were an hereditary body, in no wiſe in-

" debted

'debted to your choice; would you not be 'an enſlaved, and an unhappy people? but 'even, then, you would be happier than we 'are. A body of 500 men, ſituated in the 'midſt of ſeven millions, and taxing thoſe 'ſeven millions, would ſurely be more 'bound to moderation, by fear, if not by 'principle, than the ſame body, aſſiſted and 'ſupported by thoſe ſeven millions, in tax-'ing two millions, who are at a diſtance. 'To oppreſs, in one inſtance, would, at 'leaſt, be infamy, if it would not be pu-'niſhment; in the other, they might find 'it popularity, they might think it patriot-'iſm. Mr. P—tt ſaid (if I miſtake not) 'that every man in England could huzza at 'an election: even that method of expreſ-'ſing one's wiſhes, is ſome ſatisfaction, and 'has ſome influence; the ſhoutings of the 'people, have had great effects; and the 'very murmurs of Engliſhmen, had, per-'haps, more ſhare in the repeal of the 'ſtamp act, than the united voice of Ame-'rica. —— We cannot even *buzza* at an 'election!

'The right of preſenting petitions to par-'liament, was deemed of ſo much impor-'tance, that it was inſerted in the Bill of 'Rights.

'Rights. In this fundamental right, the
'bulwark againſt parliamentary oppreſſion,
'as well as every other, under what diſad-
'vantages do we labour? How different
'is the effect of a petition, preſented by the
'hands of the injured, enforced by their aſ-
'ſiduity, and recommended by their tears,
'from that of our *paper-repreſentations*?
'They are ſubject to be miſrepreſented in
'a thouſand ways: they come cold, and you
'do not feel them; often too late, and you
'cannot comply with them; and what was
'done by you, through inattention and
'miſtake, muſt be maintained, *for dignity*;
'in a word, they do not ſtrike home,
'either upon your caution, or your kind-
'neſs; your affections, or your fears. In
'this particular, the very women and chil-
'dren of England, have an influence upon
'Parliament, of which the Americans are
'deſtitute. How different is your lot from
'ours! In the character of an American,
'to the people of England, I ſpeak. Your
'frequent elections are a valuable privi-
'lege to you; what privilege are they to
'us? At the cloſe of a Parliament, you
'expect popular meaſures, from the fears
'and the hopes of your repreſentatives.
'But who will find it his intereſt, to be

'a friend

'a friend to America? They will wiſh to
'gain the favour of their countrymen, and,
'therefore, will burthen America, in order
'to diſburthen England. What to you is a
'valuable privilege, will be to us a ſource
'of repeated oppreſſion. We are more un-
'fortunate, even than your Papiſts. In be-
'ing excluded from the right of ſuffrage,
'they are like us; and as they pay dou-
'ble land-tax, in that *additional* payment
'the reſemblance continues; for it is a tax
'impoſed by men, whom they had no ſhare
'in electing, and it is a tax, which thoſe
'who impoſe it, do not pay. In *every* tax
'that you lay upon us, we are in the ſame
'ſituation, that the Papiſts are in that one.
'—But how is your conduct towards *them*,
'reconciled to juſtice? Whilſt they refuſe
'you thoſe aſſurances of their allegiance,
'which the law requires, you ſay, that they
'muſt not be *intruſted* with the choice of
'repreſentatives; (1) and as allegiance is
'a quality eſſential to being a ſubject, you

(1) In the firſt edition, I mentioned, more largely, the motives of our conduct towards the Papiſts: I mentioned them as the ſentiments of others, not as my own: but leſt I ſhould be miſinterpreted, I now omit them.

'do not conſider them as completely ſub-
'jects, whilſt you doubt their allegiance.
'—You tax them, therefore, without their
'conſent; yon exclude them from the
'right of ſuffrage. When you can apply
'the ſame reaſoning to us, let us be, like
'them, the outcaſts of legiſlation. Your
'only juſtification for inflicting theſe pe-
'nalties upon them, is, that you doubt
'their being ſubjects. Your only pretence
'for inflicting the ſame penalties upon us,
'is, that we are ſubjects. *Same* penalties,
'did I ſay? nay, worſe; for as they are
'inflicted on us, without offence, we can-
'not, by a diſcontinuation of offence, ex-
'empt ourſelves from theſe grievances. The
'Papiſt, by becoming a Proteſtant, can
'free himſelf from this diſability, and this
'double taxation: but we cannot free our-
'ſelves from this miſery, but by ceaſing to
'be Americans. Beſides, your Papiſts are
'connected with their legiſlators, by rela-
'tionſhip, friendſhip, neighbourhood, or
'dependence. Their poſſeſſions, too, are
'Britiſh, and they muſt have influence, tho'
'they have not votes. And the great right
'of petitioning, they poſſeſs, with all its
'advantages, and can enforce their peti-
'tions, by their preſence, their aſſiduity,
'their

'their numbers, and their tears. What then
'is the freedom, and what are thoſe Bri-
'tiſh privileges, to which you confeſs we
'are intitled? What are thoſe rights, which
'we have poſſeſſed, above an hundred years,
'which we derived from ſolemn compact,
'which we have purchaſed by the profits
'of our trade, and by an unſhaken alle-
'giance?"

In this reply, which I have put into the mouth of a Coloniſt, I have examined, pretty minutely, the real extent of American liberty, under the preſent meaſures. I have ſhewn the *diſſimilarity* of their condition to our own, and to that of a free people. I ſhall now ſhew the ſimilarity of their condition, to that of thoſe nations, whom we call ſlaves. The author of the Letter to Lord Hillſborough, ſays, *Libertas recipit magis et minus*; *that there are degrees of freedom.* I allow it. In what does perfect political liberty conſiſt? Some authors define it to be, *the power of doing what the laws permit.* If I do not miſtake the meaning of this definition, it is clearly erroneous. To do what the laws of Turky permit, certainly is *not* liberty. Perfect political liberty conſiſts, rather—in the not being ſub-

ject to any laws, but ſuch as we have conſented to, by ourſelves, or by our repreſentatives. If Britain is but imperfectly repreſented, it has but an imperfect freedom. But conſidering the imperfection of every thing human, it may well boaſt of the excellence of its conſtitution. There are other nations, the lives and fortunes of whoſe inhabitants, are dependent upon the will of ſome perſon whom they do not elect, and whom they cannot remove; or upon ſome other country, in the government of which they have no ſhare. France, Spain, and Turky are inſtances of the firſt; Corſica, while it was under the yoke of Genoa, of the ſecond. All ſuch governments are abſolute, or deſpotic, and the people ſubject to them, we call enſlaved. Between their ſituation and our own, there are, indeed, many degrees. But I defy the author of the Letter to Lord Hillſborough, to ſhew, that any of thoſe degrees would be enjoyed by the Americans, if meaſures ſhould be carried to the extremes which we now hear of. I do not ſay that there is *not* a medium, between a good conſtitution, and ſimple deſpotiſm; but I ſay the Americans would not *poſſeſs* that medium. He objects to the advocates for America, their aſſerting, *That if depend-*

ence

ence be enforced, in any the leaſt degree, the Coloniſts are ſlaves. Let him not object it to me; my aſſertion is that they are ſlaves, if the Britiſh Parliament aſſumes unlimited power over them, *in every particular whatſoever.* If a people can be deprived of their lives and their property, by another perſon, or another nation, is it not evident that ſuch a people is not free? whether it be by a nation, or by a monarch, is not material. The maſters, indeed, are different, but the *government* is equally deſpotic. The Helots of Sparta were as much ſlaves, as the ſubjects of the Grand Signior. Now I defy any perſon to mention one ſingle power, which the Spartan republic aſſumed over the Helots, which England does not aſſume over her Colonies. I would not inſinuate that Great-Britain will not govern with greater humanity: but if her power be mildly adminiſtered, it will indeed be a *milder* deſpotiſm, but it will not therefore be *the leſs* a deſpotiſm. Should we thus addreſs ourſelves to a colony of France or Spain: You live under an abſolute government; transfer your allegiance to us, and you ſhall enjoy thoſe privileges, which Great-Britain diffuſes through all her dominions. Might it not anſwer, in theſe words; *I am not*

not burthened with taxes in near ſo great a proportion as your Coloniſts, but I would conſent to pay more than I do, if I were to enjoy a greater degree of freedom. What then are thoſe privileges which you offer to me?" We might ſay to them, One of the principal privileges ſhall be this, that you ſhall not be taxed, except by your own repreſentatives, or elſe by the Parliament of Britain. Might it not then reply to us? I find then that my repreſentatives are not to be a part of that Britiſh Parliament, which is to tax me; were I ſubject to the abſolute dominion of an aſſembly elected by the provinces and cities in France, ſhould I be one whit more free, than in being ſubject to the abſolute dominion of its monarch? When you ſpoke to me of privileges, I imagined that you meant that right of ſuffrage, which is the boaſt of the Britiſh conſtitution. You give it to me, indeed, in one place, but you will tax me in a place where you will not give it to me. When our own ſovereign has taxed his ſubjects as much as he thinks proper, he will ſcarcely refuſe them the privilege of taxing themſelves again, in any manner they pleaſe. If you can demonſtrate to me that our monarch aſſumes one ſingle power over us, which

you

you do not aſſume over your Colonies, I will hearken to your propoſals, but if you cannot, your government is as arbitrary, as that of France; we are leſs taxed, and as free as your Colonies.

Having examined the real condition of the Coloniſts, under the preſent ſuppoſed meaſures, with as much attention as I am capable of, I can find in it no circumſtance, which ſhould prevent my aſſerting that they would be as deſtitute of freedom, as any nation ever was, or ever can be: now whatever thoſe rights and privileges may conſiſt in, which confeſſedly belong to the Americans, they certainly do *not* conſiſt in *ſlavery*, which is the want of every right, and the deprivation of every privilege.

I have ſhewn that the compariſon, between the Americans, and thoſe Britons who have no ſuffrages, is falſe; and that if it were true, it would not be argumentative. I have ſhewn what the freedom of the Americans, does *not* conſiſt in, and I will now endeavour to ſhew what *are* thoſe privileges, to which they are intitled. I cannot help obſerving, in this place, that every one who has written againſt them, has confined his endea-

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vours to the proving which of the Britiſh privileges they ought *not* to poſſeſs; but not one of them has mentioned thoſe privileges, which they *ought* to enjoy. It is a little ſuſpicious, that thoſe authors, whoſe profeſt deſign is to convince and to conciliate the Coloniſts, have never once enumerated thoſe advantages, which they are ſtill to enjoy, under parliamentary government. Surely, nothing would be ſo likely to pacify them, as a recital of the bleſſings, which are ſtill to remain to them.

But to return: in order that the Americans ſhould enjoy Britiſh freedom, it is not ſufficient that they ſhould adopt *that part only* of our conſtitution, which *departs* from the principles of Britiſh liberty; they muſt poſſeſs that part which is excellent, as well as that part which is defective, or their liberty is not an image of ours. It is not, therefore, ſufficient that an American land-holder ſhould be on a par, with a Briton who has no landed property, or with a Britiſh Papiſt. But that an American *freeholder* ſhould have the ſame power over his *own* property, as a *Britiſh* freeholder has over *his own*. If any man ſhall object to me, that I have placed the Colonies in a ſituation *too* equal to their mother-

mother-country; I anſwer him, that I have done ſo, only with reſpect to their *own veſted and acquired* property *; and that Americans have as much right to the property of America, when once *acquired and veſted*, as *Britons* have to the property of *Great Britain*.

In order that taxation and repreſentation may not be united, in America, the adverſaries of America deny that they were united in Britain. And attempts have been made to produce inſtances of their diſunion, taken from different periods of the Britiſh conſtitution. It is not material to my cauſe, to examine whether thoſe attempts have ſucceeded. If America be intitled to Engliſh privileges, the Engliſh conſtitution, ſhe is intitled to that conſtitution, as it ſtood, at the *time* when the Colonies were planted. She is not to have the conſtitution, that exiſted in the time of William the Conqueror, or of

* The Americans muſt relinquiſh many rights of property; that is, many rights of *acquiring* property; for they muſt be ſubject to Britiſh navigation laws, and trade-regulations; but the right of *granting* property, already acquired and veſted, ſhould be ſacred. This ſhould be theirs, ſafe and intire.

the Saxon heptarchy, or of the Roman government. If England communicated to America her conſtitution and her privileges, we communicated them ſuch, as ſhe herſelf, at that time, enjoyed. It was the conſtitution of England, at that period, that every man poſſeſſed of 40ſ. a year, by that free tenure which we call a freehold, ſhould have a vote in electing a member of that aſſembly, which alone could tax his property; beſides certain perſons, inveſted with privileges, in cities and boroughs. This was, and is, the bulwark of Engliſh liberty; without this, we ſhould be ſlaves. This, then, is the conſtitution, which is communicated to America: let not, therefore, *her* property be taxed, except in an aſſembly, to which *her* freeholders and electors ſend a repreſentative. At an earlier period, the privilege of voting in England, was diffuſed much more univerſally; it belonged to all who held by a free tenure; that is, to all the *ſubjects* of England; for thoſe who held by other tenures, were not ſubjects, but *villani*, or ſlaves. So intire was the union, at that time, between repreſentation and taxation: but to this conſtitution, the Coloniſts have no pretenſion, as it was not the conſtitution of England, at the time of their eſtabliſhment. By the 8th of

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Hen. VI. the right of voting was confined to ſuch freeholders, as had 40ſ. a year, and thus the more opulent freeholders were entruſted with the rights of all the reſt. It appears to me that England, by this change, had *two* kinds of repreſentatives. The richer freeholders repreſented the *others*, and the Houſe of Commons repreſented *them*. Thus the opulent freeholders were *repreſentatives of election*, conſtituted by their circumſtances; and the knights were *repreſentatives of legiſlation*, appointed by ſuffrage. If there be any juſtice, in this opinion, all the *ſubjects* of England, were, either actually, or virtually, repreſented. But if there be not, and if it be admitted that England was, and is, *partially* repreſented—give a repreſentation *as* partial, to her Colonies. If Britain be imperfectly repreſented, ſhe has but an *imperfect* freedom; but if the Colonies have *no* repreſentation, they have no freedom, at all. If Britain has *not* the *beſt* conſtitution, which human invention could have ſuggeſted; is it a reaſon that America ſhould have the *worſt*?

In the memorable conteſt with the H—e of P—s, about the right of originating taxes, the C——ns urged; with great force,

their exclusive right, to that privilege. They thought it unreasonable, even, that any part of the taxes, should be increased, or diminished, or that the rates should be examined by the P—rs, *whose proportion in all taxes, in comparison to what the commonalty pay, is very inconsiderable.* I believe the same assembly think these words to contain good sense, at this day; and it is undoubtedly very reasonable, that those who give the most, should have the greatest share, in modelling the gift. Such were the maxims that were formerly adopted, by that great assembly, and such were the reasonings, on which their greatest privilege is established. Why then do they *now* think it reasonable, that those who pay not an *inconsiderable*, but *no* proportion, should not only originate a tax, but pass it into a law? Compare the spirit of their former maxims, with that of their present. "It is unjust in you, my L—ds, to *begin* "a taxation, of which you pay only a small "proportion; yet we will *impose* a tax upon "America, of which we pay no proportion, "at all. It is unjust that you, my L—ds, "should even *originate* a tax, upon men, of "whom you are but the lesser number, "though the rest may afterwards refuse it, "if they please. But it is just for us to

"enact

" enact a tax-law for the Coloniſts, which
" they ſhall *not* have a power to refuſe, al-
" though we are not any part of them. The
" right of propoſing taxes, belongs to us as
" repreſentatives of the people who pay them,
" and yet we will tax a people of whom we
" are *not* repreſentatives."

By *repreſentatives*, I mean men elected and appointed by others, to act for them—In a more extended ſenſe of the words, perſons who *act for* others, may be ſaid to repreſent them, although they be not elected by them. In this ſenſe of the word, an abſolute monarch *repreſents* all his ſubjects; the council of ten, at Venice, in many inſtances, repreſents the ſtate; the king of England, when treating with a foreign ſtate; repreſents his dominions; and the Britiſh parliament, when it makes trade-regulations for the Colonies, may be ſaid to repreſent them, becauſe it *acts for* them. But it is by *real* and *elected* repreſentatives, that liberty muſt be preſerved; when, therefore, I ſpeak of repreſentatives, in general, I mean ſuch only. The author of *The State of the Nation*, ſays, " The ſupreme
" legiſlature repreſents all the ſubjects of the
" ſtate," that is, the Parliament of Great Britain repreſent the Coloniſts. Now there

are two ways only, by which one perſon may be ſaid to repreſent another, either as being *elected* by that other perſon, or as having a right to act for him. That the Britiſh Parliament, or any Part of it, is not *elected* by the Colonies, is too plain to admit of a diſpute, it does not, therefore, repreſent them, in that light; and whether it has a right to *act for* them, is the very point in queſtion; let him not, therefore, take it for granted—I have given my *reaſons*, that it *has not*; he has made his *aſſertion* that it *has*. When he proves that it has a right to *act for* the Colonies, in the article of granting taxes, I ſhall allow that it repreſents them, in that inſtance; or when he proves that it repreſents them, I ſhall allow that it has a right to act for them.—He quotes the words of Mr. Locke, " The legiſlative is the joint " power of every member of the ſociety, " given up to that perſon, or aſſembly, which " is legiſlator."—The definition is accurate, but the application of it, is not. In every inſtance, where the joint power of every member of the Colonies, has been given up to the Britiſh Parliament, that aſſembly is undoubtedly their legiſlator—But it remains for him to prove, that *the right of taxation*, is one

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of thoſe inſtances. Let him prove it, if he can, but let him not take it for granted.

The ſame author quotes a ſtatute, the 1ſt of Ja. I. which ſays, " That the whole body " of the realm, and every particular member " thereof, either in perſon, or by repreſen- " tation upon their own free election, are, by " the laws of the realm, deemed to be pre- " ſent in the High Court of Parliament."— He cites this ſtatute, to prove, that every member of the realm, is repreſented, not in the Houſe of Commons, but in Parliament. In my opinion, he might ſpare himſelf the trouble; every one knows that the *Lords* are members of the realm, and every one knows that the Lords are not repreſented, in the Houſe of Commons. I will readily allow that the Parliament of England, is the repre- ſentative of England; but does it follow from thence, that it is the repreſentative of the Co- lonies? ſurely he would not inſinuate that the Colonies are preſent, in that court, either in perſon, or by repreſentation upon their own free election.

In order to prove that the parliament has a right to bind the Colonies, in every caſe whatſoever, the ſame author aſſerts its right

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to bind *all the King's ſubjects*, and he inſtances the Palatinate of Cheſter. If the Allegationsof the Petition, which he has quoted, be true (that that Palatinate was diſtinct and ſeparate from the Crown of England, and that their Count held it as freely, as the King of England did his crown) it is evident that the Parliament acted *unjuſtly*, in binding them; if they be not true, why has he quoted it as an authority? In order to prove that Parliament may bind *all* the *Dependencies* of Britain, he cites *one* inſtance only, and that *not* of a dependency. And to prove that it would act *juſtly*, in ſo doing, he cites an inſtance, where it acted *unjuſtly*.

Bills of ſupply are looked upon, not only as laws, but as free gifts; and, on account of this difference in their natures, they are ſubject to different forms. The lords cannot originate them, although they alſo are *legiſlators*. And when the royal *aſſent* is given, the royal *thanks* are given, alſo. The 9th of Henry VIIth, enacts, that the King ſhall *thank* both Lords, and Commons: but if our Parliament ſhall tax the Coloniſts, to whom are the r——l thanks to be addreſſed? Is he to thank his *Britiſh* ſubjects, for giving him the property of the *Coloniſts?* Is he to thank

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the Engliſh, for money which they do not pay, or the Americans, for a *free gift*, wreſted from them againſt their will? Which of theſe mockeries would be moſt unworthy the great ſcene, on which they are to be acted?

Much declamation has been uſed, on both ſides. The Engliſh ſpeak of the blood and treaſure they have expended. The Americans, that they have encountered an inhoſpitable climate, for the purpoſes of Great Britain, and have dedicated their lives and fortunes, to her ſervice. There is no weight, in any of theſe declamations. Whatever was done by either of them, was done for their own advantage. If Britain has protected the property of America, it does not conſtitute her the owner of that property. She has, for her own ſake, protected, in their turns, almoſt every country in Europe, but that does not make her the proprietor of thoſe countries, or give her a power of taxation over them. If America, in purſuing her own intereſt, has advantaged Britain, we owe her no obligation. Whilſt we each poſſeſs thoſe benefits, for which we expended our treaſure, and for which they encountered that climate, we owe nothing to each

other, but reciprocal affection. To extend their commerce, our anceſtors encouraged the emigration of Britiſh ſubjects. Their induſtry abroad was thought more advantageous, than their reſidence in Britain. As an inducement to forego thoſe privileges which they poſſeſſed, or might acquire at home, it was agreed that they ſhould carry Engliſh privileges along with them. And as an inducement to become the carriers, and the labourers of England, they were endowed with a deſart territory, uſeful only by the induſtry they ſhould beſtow upon it, and this was given them, as their *wages*. Let not a compact, founded in our intereſt, purchaſed by their labour, and confirmed by time, ſuffer any violation. Let us be content, with our commercial advantages, and thoſe ſuperiorities which they willingly ſubmit to. Let us make them labour for us; but us not take from them their *wages*, alſo.

Having conſidered the juſtice of the preſent meaſures; let us now examine their policy; and in this examination, let our ſentiments of equity forget to operate. Let us forget that they have rights, or that we have humanity. Let us ſuppoſe ourſelves entering into an agreement, with a *free* and a *conſiderable* people, and ſettling the terms

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of an everlaſting union. Or if any one ſhould be of opinion, that neither of theſe circumſtances, are applicable to the Colonies; let us ſuppoſe them in their numbers inconſiderable, unaccuſtomed to liberty, overawed by fear, or humiliated by conqueſt, and ready to receive any conſtitution, we pleaſe to impoſe upon them. In ſuch a ſituation, what reflections ſhould our own intereſt ſuggeſt to us? Though this people be weak, at preſent, their ſtrength, and their numbers, may increaſe *; though we ourſelves are ſtrong, our ſtrength may decline; though their ſpirit is depreſſed, it may revive. They are placed at a great diſtance from us. We have formidable enemies. Their affections, therefore, are of the utmoſt importance, and there is no method ſo certain, of ſecuring their affections, as the making it their intereſt, to be our friends. We ourſelves have a free conſtitution: if we grant liberty to them, they will be ſteady to us, becauſe they cannot change, for the better: if we aſſume unlimited and abſolute

* It is whimſical that Mr. Canning mentions the probable increaſe of the Americans, as an Argument for meaſures, that muſt exaſperate them.

authority, they will wiſh to change, becauſe they cannot change, for the worſe. The tyranny of a deſpotic commonwealth, is infinitely worſe, than that of a deſpotic prince. But it is vain to endeavour to deceive them; though they have never taſted liberty, they will ſoon become acquainted with its nature. They will perceive the *miſery* of their ſituation, by the happineſs of *ours*. While their garriſons are filled with our ſoldiers, their harbours with our fleets, and their employments with officers, of our appointment, and while they derive from us a degree of freedom, we ſhall be ſecure, both by our own power, and by their affections. They are weak, by their circumſtances, let us not make them ſtrong, by their deſpair. The gradual increaſe of numbers and of opulence, may add to their force, but that force will ſleep, unleſs it be awakened, by injury: and while we retain an abſolute power over their trade, that very increaſe will depend upon our regulations. Whilſt they are happy under our government, their ſtrength and their opulence will be ſtrength and opulence to us; but, if we oppreſs them, they will be our weakneſs, and our danger. The numbers of a people, are not ſo formidable, as their union, their hatred,

hatred, their fury. If there ever ſhould come a time, when they ſhall be able to ſhake off our ſovereignty, it will paſs unheeded, by a grateful and happy people, But if our dominion be founded *only* in *our* ſtrength, it will ſubſiſt no longer than *their* weakneſs. It is, therefore, evident that we ſhall hold America, by a better ſecurity, if we do not enſlave it. But will it afford us as much preſent emolument? This ſurely is a conſideration, much inferior to the other; it may have more weight with a ſhort-lived and a ſhort-ſighted adminiſtration; but can never have ſo much with a thinking nation. Yet let even this be conſidered; we know that this nation has paid conſiderable taxes, without any compulſion; and we know that free nations can ſupport greater burdens, than nations equally opulent, that are enſlaved. No power, no management, has ever ſucceeded to tax the latter, as highly as the firſt; and the efforts of deſpotiſm have produced only depopulation, or rebellion. Thus it is by no means certain, that even our preſent emoluments would be the leſs, if we extort nothing from them againſt their own conſent. Beſides, with how much leſs *expence* can we ſecure the allegiance of the willing, than of the unwilling. Amongſt the firſt, a

militia

militia would be ſerviceable; amongſt the latter, it would be formidable to ourſelves. Let us alſo conſider with how much greater eagerneſs our manufactures will be purchaſed, by a greatful, than by an exaſperated people. We are now at peace with the world; the moſt rigorous meaſures may ſucceed, for the preſent; but ſuch meaſures are not the moſt eligible in themſelves, when conducive neither to preſent advantage, nor future ſecurity. The greateſt man of his age has told us, that two millions of fellow-ſubjects, deprived of their liberty, would be fit inſtruments to make ſlaves of the reſt. Surely there is a juſtneſs in his obſervation; thoſe whom we reduce to *ſlavery*, cannot wiſh well to our *freedom*. Let us alſo conſider, that without aſſuming that deſpotic authority, which is intolerable to human nature, we may yet retain a power amazingly extenſive. A power over the commerce of a nation, affects the merchant, the landholder, and the manufacturer. Though we cannot dive into their purſes, to wreſt from them what they have *already* acquired, we can prevent their *future* acquiſitions. Nay, we can do more; we can make what they poſſeſs already, leſs valuable, by its ſtagnation. Though the power of *granting*, belong ſolely to themſelves,

ſelves, they will yet have but little power to *refuſe*. Says the author of the *State of the Nation*, "Is it of no importance to the thriv-
"ing American Colonies, that Great Britain,
"finding her incapacity to defend herſelf,
"and protect them alſo, ſhould be obliged
"to confine her fleets and armies to her own
"coaſts, and leave them expoſed to the ra-
"vages of a domeſtic, or the conqueſt of a
"foreign enemy?" Yes, certainly, it is of the utmoſt importance, and therefore the preſent ſuppoſed meaſures are as *unneceſſary*, as they are unjuſt; for whilſt the Colonies derive from Great Britain the ineſtimable bleſſing of liberty, they will ſtrain every nerve, in ſupport of a power, by which that bleſſing is to be ſecured. If weakneſs ſhould ever infect the Britiſh empire, its diſtant dependencies will feel the *firſt* ſymptoms of it. For their own preſervation they will exert themſelves, in a common cauſe, and for their own ſakes they will aſſiſt their mother country, whilſt by aſſiſting her, they protect themſelves. But if we reduce them to a ſituation more deplorable than that of a French Colony, from that moment our intereſts are ſeparate, what terms can they expect from *any* enemy, that will be worſe than ſlavery? Our very avarice ſhould direct us

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to addreſs ourſelves to freedom, which is always liberal, rather than to ſlavery, which never makes any return*. Let this content us: that their increaſe and their proſperity, ſhall depend upon our ſufferance, and their very exiſtence, upon our protection; that the ſea, the common benefit of mankind, may be denied them, that the labour of their hands, the ſtrength and the ingenuity which nature has beſtowed upon them, ſhall be converted to our purpoſes; but, for our own ſakes, let us not diſcourage that induſtry, which is to benefit ourſelves: what we permit them to acquire, let that be their own.

Thus, on every preſent, and every future conſideration, I ſhould think myſelf an enemy to Great Britain, ſhould I propoſe to give worſe terms, to a people unendeared by former connections, unacquainted with liberty, and deſtitute of any claim upon our juſtice, than thoſe which are demanded for *our fellow ſubjects*. But it muſt not, therefore, be forgotten, that they have long been our friends and brothers; and that another ſyſtem cannot be eſtabliſhed, without a violation

* Eſprit des Loix.

of

of national faith, a departure from our juſtice, and, at one time, perhaps, the ſhedding of their blood. We ſhould be well aſſured of the rectitude of our cauſe, we ſhould advance to the utmoſt limits of negotiation, before we draw the ſword, againſt our brothers. We ſhall prevail, with certainty, indeed, but we may not prevail, without a conteſt. And, though, the force of terror only, may give temporary eſtabliſhment to our authority, the ſword and the executioner muſt maintain it. From men deprived of every thing that they hold moſt dear, and deprived of it, by their friends, what may not be expected! Any thing ſhould be expected, except their ſubmiſſion. What then are the ultimate objects of the moſt oppreſſive laws, and moſt ſanguinary councils? Will they reſtore us to that brotherly affection, which infuſed the ſame ſoul, into every part of our empire, or procure us an uncertain quiet, a diſaffected ſubmiſſion? Let France expect *ſuch* a ſubmiſſion, from Corſica; by our ſupineneſs ſhe will obtain it: and ſhe may well be contented with it—She is accuſtomed to govern, by fear; and over a people, where heretofore ſhe had no authority, even that influence will be ſome acquiſition. But neither her numerous armies, nor her mighty

power, nor her vicinity to that devoted iſland, nor the paucity of its inhabitants, can enſure to her a quiet and an uſeful poſſeſſion, while ſhe finds an enemy, in the hearts of the people. But by us, if poſſible, ſtill leſs is to be expected: with leſs diſproportioned force, we may encounter a more rooted antipathy. The Corſicans never taſted freedom, under a French adminiſtration; ſhe has only *prevented* their emancipation, from the tyranny of Genoa, and will receive them under a milder oppreſſion. But the Americans will be *deprived* of a liberty, which they have already poſſeſſed, many years, under the tutelage of Great Britain. A more violent change, a more intolerable perdition. And are theſe meaſures *wiſe*, whoſe very ſucceſs has but this for their object, and whoſe failure is ruin? Are theſe the principles, by which free men ſhould govern free men? Is this that invincible union, and that firm eſtabliſhment, by which Britain ſhall hold the Weſt Indies, in her right-hand, and the Eaſt, in her left? Or is this the wiſdom which muſt heal public credit of a thouſand wounds, and ſupport the weight of a tottering empire? There may come a time, when the diſtreſſes of Great Britain may require the utmoſt efforts of a grateful people,

and

and our poſterity may find, by a fatal experience, that the ſword was but an ill interpreter of charters; and that the characters of freedom, will not be leſs indelible, in the breaſts of the Americans, if they be written in the blood of their forefathers. What ſhall I ſay of theſe meaſures? That they are ſo impolitic, that we ſhould reject them, though juſtice did not condemn them; that they are ſo unjuſt, that ſhould reject them, were they ever ſo politic.

Theſe conſiderations I have preſumed to dedicate to the greateſt aſſembly in the world, and to the beſt of princes. If they carry any conviction along with them, the conſequences naturally follow. Firſt, that we ſhould leave the Americans to tax themſelves: Secondly, that we ſhould retain to the Britiſh Parliament, every power that is not inconſiſtent with our juſtice, and their liberty: That a law ſhould be paſſed, immediately, repealing every act, that taxes the Colonies. I do not propoſe, that it ſhould contain any counter-declarations, or that the power ſhould, in terms, be diſclaimed. It will be ſufficient that they be repealed, and that we do not revive the claim. *Let it be buried in oblivion; let it hang between the con-*

ſtitutions of both countries, equally pernicious to both, and belonging to neither. Let it be ſuſpended, like the ſword of the murderer, in the Grecian law, which was depoſited in their temples, as unfit to be handled; and conſecrated, as it were, not for its merit, but offence *. And leſt, at any time hereafter, it may be diſputed where the line is drawn, between American liberty, and Britiſh juriſdiction, perhaps it might not be improper to declare, in the ſame law, the ſupremacy of Britain, and its abſolute dominion over navigation and commerce. Can we aſſert the dependency of the Coloniſts, in ſtronger terms, than thoſe of Mr. Otis, a gentleman who is certainly well informed of their ſentiments, and who has probably a conſiderable ſhare in forming them, "That the Par-
" liament of Great Britain has undoubted
" power, and lawful authority, to make acts,
" for the general good, which, by naming
" the Colonies, ſhall, and ought to be equal-
" ly binding, as upon the ſubjects of Great
" Britain within the realm." Should the Coloniſts complain, that if this power be re-

* Theſe words were made uſe of, upon a different occaſion, by Mr. F——, the brighteſt ornament of the Iriſh Parliament.

ſerved,

ſerved, they have not the ſame degree of freedom, or all the privileges that are poſſeſſed by their Britiſh brethren, I ſhall readily confeſs that they have not: but it was not intended by their original compact, that they ſhould. If Britain does not reſerve to herſelf an abſolute authority, over the trade of her Colonies, not one of the ends will be anſwered, for which thoſe Colonies were planted: they will not be ſubſervient to the commerce of their mother-country; they will rival and deſtroy it. And ſurely we ſhall not be deemed enemies of their freedom, in adopting the ſentiments of its able and intereſted defender. The power of regulating their commerce, and the right of prohibition, have indeed a moſt extenſive dominion, over the wealth and proſperity of America; and thoſe demands muſt be exorbitant, indeed, which can be refuſed to an aſſembly poſſeſſed of ſo mighty a prerogative. But there is a material difference, between ſtopping the acquiſition of riches, and the taking away what is already acquired. They have, indeed, but a bitter alternative; but bitter as it is, *they have an alternative*. Says Mr. Otis, in the true ſpirit of liberty, "I had "rather ſee this (right of prohibition) car- "ried, with a high hand, to the utmoſt ri-

"gour,

" gour, than have a tax of one ſhilling, taken " from me, without my conſent."

It is ſo much the intereſt of Britain, to promote the commercial welfare of her Colonies, that they may form a reaſonable expectation, that theſe intereſts are ſafely depoſited. But on this ſelf-intereſt, on the wiſdom and equity of the Britiſh legiſlature, and on the conciliating moderation of their own conduct, much, very much of their proſperity will depend. Of this moderation we have as yet made no trial. When we deſiſted from *actual* oppreſſion, we laid its *future* foundations, and the repeal of the ſtamp act, was attended with the ſtrongeſt aſſertions of our *right* of taxation *; aſſertions which an upright adminiſtration never

* The author of the State of the Nation, obſerves, that the exports to America, in the year ſubſequent to the repeal of the ſtamp act, fell ſhort of thoſe in the year preceding it; and he, therefore, blames the conduct of that adminiſtration, by whoſe influence " the " ſtamp act was repealed, and every other American " propoſition adopted." It is a little extraordinary, that men who ſo ſtrongly aſſerted our unlimited power over the Colonies, ſhould be ſaid to have adopted " every Ame- " rican propoſition." The diminution of our exports, ſhould be attributed to our *rejecting* American propoſi-

intended

intended to carry into experiment, but an unhappy compliment, which wiſdom and virtue paid to temporization and prejudice. If, impreſſed with a conviction of their freedom, the Americans have a ſenſe of injury, let not Britons reſent the ſentiments they have communicated. Let us maturely conſider whether we ourſelves were not the aggreſſors. If force is juſtifiable in deſtroying thoſe rights, which are derived from time, from compact, and from nature; what is not juſtifiable for their re-eſtabliſhment? If the cauſe of the Americans be juſt, their firmneſs is virtue.

tions, rather than to our adopting them. The diminution of our exports, was owing to the diſcontent of the Americans; that diſcontent to our claiming a right to tax them. Whether the continuance of that diſcontent, was owing to the continuation of our claim, or to the repeal of the ſtamp act, I ſubmit to the judgment of my readers.

THE END.

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